

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 1:06CR58  
(Judge Keeley)

JOSH MURRAY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION REGARDING  
DEFENDANT'S MOTIONS**

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On October 9, 2006, the defendant, Josh Murray ("Murray"), filed a motion for severance and motion for relief from prejudicial joinder (dkt no. 42), a motion in limine (dkt no. 43), and a motion to dismiss Count One of the Indictment (dkt no. 44). On October 19, 2006, Murray also filed a motion to dismiss or, in the alternative, motion to suppress (dkt no. 51). Subsequently, the Court referred all pending motions to United States Magistrate Judge John S. Kaull to conduct a hearing and recommend a disposition for the motions (dkt nos. 50 & 53).

On January 9, 2007, Magistrate Judge Kaull entered a Report and Recommendation, stating that Murray had entered a plea of guilty to Count Four of the Indictment on January 4, 2007. Accordingly, he recommended that the defendant's motions be denied as moot in light of his entry of a guilty plea in the case.

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Magistrate Judge Kaull advised the parties that they should file any objections to his recommendation no later than 10 days after receiving service of his Report and Recommendation. He also warned the parties that a failure to do so would result in the waiver of their appellate rights with respect to the motion to strike.<sup>1</sup> Nevertheless, none of the parties filed any objections.

Accordingly, the Court **ADOPTS** Magistrate Judge Kaull's Report and Recommendation (dkt no. 83) in its entirety and **DENIES AS MOOT** the defendant's motions (dkt nos. 42, 43, 44 and 51).

It is **SO ORDERED**.

The Clerk is directed to send a certified copy of this Order to counsel of record and all appropriate government agencies.

DATED: January 26, 2007.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).